

WASHINGTON, DC -- Rep. Linda Sánchez (D-Lakewood) issued the following statement today upon introducing the Fairness in Nursing Home Arbitration Act of 2008.

"I rise today to introduce the Fairness in Nursing Home Arbitration Act of 2008 to protect one of our most vulnerable groups: the elderly. This legislation is designed to make unenforceable all pre dispute, mandatory binding arbitration clauses in contracts between long term care facilities and their residents. Let me be clear: I am supportive of the principles of arbitration, so this legislation will not prohibit arbitration. Instead, it will simply ensure that residents have the choice whether to arbitrate a dispute after it has arisen.

"The Subcommittee on Commercial and Administrative Law, which I chair, has held three hearings this term on issues related to the Federal Arbitration Act. During these hearings, witnesses testified that many businesses utilize arbitration agreements to the disadvantage of consumers by limiting constitutional rights, imposing unreasonable costs, and creating a system in which consumers are likely to lose even when they file a valid claim.

"The long term care industry is one stark example where businesses draft take it or leave it admission agreements for prospective residents that include pre dispute mandatory arbitration clauses. A witness at the Subcommittee's October 25, 2007 hearing on H.R. 3010, the Arbitration Fairness Act of 2007, testified that the "current system of binding mandatory arbitration employed by nursing homes creates a playing field that is tilted in favor of nursing homes and against frail, vulnerable residents who suffer terribly at the hands of their caregivers. Sadly these residents are, all too often, the victims of abuse by their caregivers. They should not be further abused by an arbitration system that dispenses anything but justice."

"After hearing several stories of abhorrent conditions in nursing homes and how arbitration clauses have effectively silenced residents who want to improve those conditions, I am introducing this legislation to make unenforceable pre dispute mandatory arbitration clauses and to restore to residents and their families their full legal rights. Residents and their families will no longer have to worry about losing their right to a jury trial when they are going through the emotional and traumatic process of searching for long-term care facilities and then choosing the perfect one. I understand the emotional toll and the sense of vulnerability when moving a loved one and his belongings into the care of strangers at a nursing home. My father was recently placed into a nursing home, and one of the last things I wanted to worry about was whether he was forgoing his legal rights when he entered it. Instead, I wanted to focus solely on the quality and range of services the facility would provide him. This legislation will allow families and residents to retain their legal rights while they look for that perfect long-term care facility.

"Several groups, including the AARP, the Alzheimer's Association, the National Senior Citizens Law Center, and many others who advocate on behalf of the elderly and consumers, support this legislation. Already a similar bipartisan bill has been introduced in the Senate. I am optimistic that Congress can soon send a bill to the President for his signature so that nursing home residents will retain their choice whether to arbitrate a dispute.

"I urge my colleagues to join me, Representatives Ileana Ros-Lehtinen, John Conyers, Hank Johnson, Dennis Kucinich, and William Delahunt, and take the important step of cosponsoring

this bipartisan legislation.”